

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL  
April 09, 2018

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday April 09, 2018, at 7:00 p.m. The meeting was called to order by President Mammolenti all were asked to stand for the Pledge of Allegiance.

 **Roll Call.**

**Present:** Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Deal.

The minutes from the March 19, 2018 meeting were approved as received from the City Clerk's Office.

Clerk Block read the following Resolution by title and was opened for public hearing.

**RESOLUTION NO. 2018-06**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA APPROVING AN AGREEMENT EXTENDING THE ST. JOSEPH COUNTY HOUSING CONSORTIUM AND AUTHORIZING THE EXECUTION THEREOF**

Ken Prince, City Planner explained this was an extended agreement for the St. Joseph Housing Consortium. He said the city was one of three participating including the City of South Bend, which was the lead entity, and St. Joseph County. Mr. Prince continued to say the Federal Government and the process associated with distributing funds could be extreme. He said they found it as an advantage to be part of the Housing consortium to collectively do the task necessary for the implementation for the funds. Mr. Prince went on to say the consortium allocates the home funding provided to each entity. He said the funds were primarily distributed to Habitat for Humanity for home construction. Mr. Prince continued to say once the resolution was approved; it would authorize the Mayor to enter the agreement and would renew the agreement for a period of three years. He said the resolution was essentially identical as the previously approved.

Question was called for at 7:03 P.M. for **RESOLUTION NO. 2018-06**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Deal.**

## **RESOLUTION NO. 2018-07**

### **RESOLUTION OF THE CITY OF MISHAWAKA PLANNING COMMISSION CONCERNING THE DESIGNATING AND DECLARING CERTAIN AREAS AS REDEVELOPMENT PROJECT AREAS SPECIFICALLY RE-ESTABLISHING THE CITY MUNICIPAL RIVERFRONT DISTRICT**

Geoff Spiess, Corporation Counsel explained if approved this would establish the Redevelopment Project Area in areas in the City of Mishawaka. He continued to explain the ultimate purpose of this designation was to establish an expanded Municipal Riverfront Development Project commonly known as a Riverfront District for alcohol licensing, such as three-way liquor license. Mr. Spiess said the process consisted of a resolution that was passed by the Redevelopment Commission in February, which was then approved by the Plan Commission on March 13th. He continued to say the next step after the council approved, they would go back to the Redevelopment Commission for a public hearing for the possibility of remonstrance. Mr. Spiess said after approval from the Redevelopment Commission the city would have an expanded Redevelopment Project Area, they would appear back to the council to ask that they declare the area a Riverfront District.

Mrs. Voelker asked would this resolution give the Redevelopment Commission the opportunity explore and plan to get details in place. Mr. Spiess replied correct, there were not a lot of details but there were details that had to be met by the initial resolution. He said there were findings that they make. Mr. Spiess continued to say with the council's approval of this resolution indicates they were in agreement of the idea and then it would be approved at the remonstrance hearing.

Mr. Deal asked for the record why this proposal fits the definition of a river. Mr. Spiess explained they were attempting to include Juday Creek as a river, the statute that established the riverfront district did not define river. He continued to say the Law Department looked through the entire Indiana Code for the definition of river for other purposes, they found four. Mr. Spiess said under the four definitions found they did not directly apply or that they would eliminate Juday Creek.

Mr. Tanner said he assumed the boundary was defined from a FEMA Floodplain Map and would offset 1500' feet from the map. Mr. Spiess said generally speaking yes, it was 1500' feet from the edge of the river or a non-developable land adjacent from the river. He continued to say 1500' feet was the statutory limit, they were working within the number.

Mr. Canarecci asked if the map provided was the final or could it change. Mr. Spiess said it could change but they were proposing the boundaries they provided. Mr. Canarecci also questioned if a business was added to the district and currently had a liquor license could they sell their three-way liquor license at a market price. Mr. Spiess explained a business could sell their liquor license but if they currently had a three-way license the statute states a business could not purchase a riverfront license unless they did not have a three-way license in the last 9 months. He continued to say if the business sold their standard three-way license, the business had to wait 9 months to purchase the riverfront license.

Ken Prince, City Planner said this goes back to the antiquated liquor laws that were in the State of Indiana. He believed Mishawaka was penalized for the great number of restaurants, bars, and establishments serving alcohol, which the city is a regional designation for that activity. Mr. Prince said the way it was currently divided was based on population. He explained purchasing a liquor license in Elkhart or South Bend was cheaper than purchasing in Mishawaka because the number was capped by the way they sold three-way license. Mr. Prince said their goal in doing the amendment was to take advantage of state law as it exists to hopefully give more ability for restaurants. He said they felt it was a barrier entry for local establishments to come into an area.

Mayor Wood said this was something they have thought about for a long time. He continued to say he was constantly approached by local business owners asking to amend the district for many years. Mayor Wood said they moved the boundaries out as far as state law allowed. He felt they could better control the district with zoning. Mayor Wood believed the state laws penalized Mishawaka's growth, it put an artificially imposed market strangle hold on anyone wanting to open a business in Mishawaka. He went on to say they heard of businesses unable to come to Mishawaka because they could not obtain these type licenses. Mayor Wood said this was their attempt to open the boundaries to try to correct the artificial barrier the best they could. He stated they also could control it if they wanted to issue the license by essentially giving a support letter, they would then have say in the hours of operations and other guidelines for this type of riverfront license. Mayor Wood went on to discuss the possibility of the state meeting in a special session next month to define a river. He also mentioned the state could step in next year to take a comprehensive look at alcohol laws across the state. Mayor Wood believed this should be grandfathered, they could not legislate a business out of business. He said they think this would beat the clock on anything the state would change.

Pat Perri, President of the DiLoreto Club at 914 Division Street began by thanking Mr. Compton and Mr. Canarecci for helping him understand the process of how the new district would benefit the club and complimented them on their professionalism. He went on to give some history about the club when it all began. Mr. Perri said in the last 4 or 5 years the club had gone in a new direction, new counsel, and leadership. He went on to say they wanted to be good community partners and business partners in Mishawaka. Mr. Perri said as they grow the club they had to increase their revenue. He continued to say this proposal would help club offer more products to their members and guests and would increase their income. Mr. Perri stated they have been in business since 1942, they have struggled but they continue to move along.

Mr. Deal said he witnessed the decline at the club. He commended them for holding on; he was impressed with new improvements and looked forward to a new and renewed DiLoreto Club being in the community for a long time to come.

Mr. Compton expressed sometimes it took a local citizen to speak up, ask questions and to be persistent to get the government to move. He said Mr. Perri has always been polite and professional. Mr. Compton stated this proposal was more than just the river; it included Juday Creek, which brought more questions. He appreciated Mr. Perri's patience and what he was doing for the north side of Mishawaka.

Mr. Canarecci expressed they were excited to see what new opportunities this would encompass for Mishawaka. He said he recently attended an event at the club, the club looked exceptional.

Mr. Canarecci went on to discuss the importance of the history and the heritage of these cultural social clubs. He said it was nice to see this club on the rise.

Mr. Mammolenti said he heard a lot of great things about the new direction, appearance and improvements the club was making. He congratulated Mr. Perri on the improvements and thanked him for his business.

Joseph Trimboli, 1816 Larkspur Court was also a club and council member at the club. He said they actually began in 1933, although they were an Italian social club, that was not their intent. Mr. Tromboli went on to say his father was the youngest founder of the club; it was founded to help bring the Italian community together to provide a service for people in need. He said regaining a three-way license they once had would help gain membership back into the club. Mr. Trumboli stated the club was experiencing some growth since their decline 11 years ago after they sold their three-way license.

Question was called for at 7:32 P.M. for **RESOLUTION 2018-07**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Deal.**

Clerk Block read the following ordinances by title and were opened for public hearing.

**PROPOSED ORDINANCE NO. 2018-05**

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF  
MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION  
THEREFORE**

(Annex and zone 137.89 acres E. of Fir S. of Toll Road- Juday Creek)

(Assigned to Land Use Planning Committee)

**(PUBLIC HEARING – NO VOTE)**

Ken Prince, City Planner spoke on both Proposed Ordinance No. 2018-05 and Proposed Ordinance No. 2018-06 as they both were related to the same property. He said for few years the city was looking for property to replace the Gumwood wellfield, they did an extensive search and they thought the model they had at the Petro Golf Course was a good one to follow regarding the use of land, which lead them to Juday Creek Golf Course. Mr. Prince continued to say they spoke with the owner of the golf course and hired consultants to do extensive studies on the quality and quantity of water needed to determine the ability to do a wellfield at that location. He said they then went through the logistics on how to acquire the property; they wanted to buy all 18 holes of the golf course as well the ability to have the clubhouse at a future point in time. Mr. Prince continued to say they ultimately wanted to control their own destiny relative to the wellfield. He went on to say when they appraised the property they found out the main portion of the golf course, the 114 acres the city purchased was reasonably appraised around \$15,000 an acre and the 20 and more acres along Fir Road was appraised for \$200,000 an acre. Mr. Prince said the cost of the 20 and more acres was 5 million dollars and they paid over 1 million dollars for the remainder of the golf course. He said rather than pursue the purchase, which they felt was extreme and not appropriate for a wellfield, they investigated the opportunity in purchasing

area from the Penn Farm and work with the Penn family to reconfigure 3 holes of the golf course to allow the existing owners of the golf course to retain the property for redevelopment, so in the future they could reevaluate and the city would then reconfigure the holes to buy the land for a lower amount. Mr. Prince continued to say the estimated reconstruction of the 3 holes was just over 1 million dollars. He said the actual bids were over 2 million dollars for a variety of reasons. Mr. Prince continued to say rather than proceed with the reconstruction of the holes, they went back the owners of the golf course to ask if they would be interested allowing the city to buy the existing 3 holes for the price of the amount to reconfigure the holes instead of reconfiguring the golf course. He said the owners verbally agreed. Mr. Prince went on to say the annexation included the city's purchased area of 114 acres and the additional 20 and more acres they originally did not include in the petition. He said the petition was signed by the Rogers and the City to bring the property in to the City of Mishawaka. Mr. Prince said when the city pursued; they also purchased over 50 acres from the Penn property. He said they felt delaying the reconfiguration would help the city even though they purchased the 50 acres, explained, a dozen out of the 50 acres was needed for the wellfield because the water production facility, which would be located on the 12 acres. Mr. Prince said the area that was intended to be reconfigured for the golf course would probably be the prime location for a regional recreation facility, which the city had been considering for some time. He continued to say he found it interesting when he read Saturday April 7th paper, the South Bend Tribune; there were three interested developers with interviews scheduled in May by tourism official and consultants about the proposal. Mr. Prince said a consultant asked the development community, partners that were participating, operating or using the facility and potential property owners if they were interested in having the facility located there. He continued to say they asked everyone interested to submit proposal, which the city submitted. Mr. Prince said they have not heard anything other than what was in the paper. He continued to say they have not had any specific discussions on the interest the city submitted to them back in February. Mr. Prince went on to discuss the recreation facility, he said this was a prime location for it, Veterans Parkway which the city committed to build through Penn's property, would essentially serve as the access to the water treatment facility. He said access would cross Juday Creek then would come close to the area where the holes would be reconfigured. He said Veterans Parkway was being built to handle commercial traffic, it was a three-lane section; it would be very easy to serve the Penn property but in long-term the city would love to see it extend to Cleveland Road. Mr. Prince continued to say they have not had any discussions with the adjacent property located to the north. He said the road alignment as it currently exists crossing Juday Creek ended in a cul de sac. Mr. Price said bids were currently out, as properties would develop in the future, the road would be continued and the alignment would be determined going north.

Mrs. Voelker questioned whether the 3 holes would be reconfigured and would the 3 holes be a part of the wellfield. Mr. Prince said as the current agreement exists, they were required to reconfigure the holes, but they have a verbal agreement with the owners to accept the cost the city bid to reconfigure the holes for the purchase of the existing 3 holes. He said if the agreement goes forward, the city would not reconfigure. Mr. Prince explained the holes would be a part of the wellfield. He continued to explain that there needed to be a perimeter of space that was undeveloped to protect the wellhead. Mrs. Voelker commented the recreational center would be a big opportunity for Mishawaka. She continued to say the city was in a great economic development standpoint, they were in a great position. She hoped it goes through.

Mr. Compton asked when the verbal agreement was official, would the city be spending an additional 2 million dollars they were originally going to spend. Mr. Price said it was really 1 million more because of the reconfiguration. He explained the reconfiguration they were planning on spending but the bids came in high. Mr. Prince continued to say instead of spending the money on reconfiguration they were spending it on the purchase of the property. Mr. Compton said this could give the city the opportunity to sell in the future. Mr. Prince replied correct.

Mayor Wood stated this would set up the city for continued growth and be able to service the long-term growth. He said the city was in urgent need for a new wellfield on the north side to service the city's growth; the existing wellfield was incapable due to the city being landlocked and unable to do a filtration plant. Mayor Wood went on to say this property represented a great piece and ideally situated for the city to take advantage of the property for its existing use which was golf and to provide a new resource for the citizens. He said they have done extensive testing on the wellfield, so far they ran production runs, test drills and they were dealing with the low aquifer, which would have no impact with the upper aquifer that the surrounding properties use. Mayor Wood said the residence would notice no difference. He mentioned the city has received approvals from the state. Mayor Wood believed this project would set up Mishawaka well for the future, especially having the opportunity to take some of the additional property to build an athletic complex.

Mr. Deal expressed he knew the process for an annexation which had to go through city department to make sure the city could service the property. He said his concern was the burden it puts on the emergency services. Mr. Deal continued to say the city's Police and Fire Departments needed to grow, they were not in a situation financially to facilitate the growth as quickly as possible. He said we need to be mindful and a part of the conversation going forward. Mayor Wood said as he mentioned in his State of the City, their departments were growing, they added two new staff members for fire this year and as well as police over the recent years. He continued to say one way they could continue to add additional staff or to make it through the fiscal cliff was by growth. Mayor Wood said the revenue generated by this would help in that regard. He informed them that the vast majority of the property goes to service currently existing Mishawaka. Mayor said Mishawaka was at a point of urgent need of water, particularly on the north side. He explained the Virgil Street facility was in need of major renovation but in order to renovate they had to have the ability to put new water in the production. He said this would give the city a better ability to serve the future of Mishawaka.

Mr. Tanner questioned the lease term. Mayor Wood said the lease term was in 5-year increments, the first 5 years were paid for out of the purchase price. He continued to say when the deal closed; the 5 years were taken out. Mayor Wood said the owners expressed their intent was to do a long term with the city.

Mr. Mammolenti asked if the owner decided to sell, would the new owner have to fulfill the remainder of the lease. Mayor Wood explained the current owner was required to give 1-year notice before pulling out of the lease after the first 5 years. He said they would then do a new lease with the new owner.

Mr. Canarecci asked who pays the property taxes. Mayor Wood explained it would be a city wellfield, there were no taxes, the utilities would pay a pilot, which they currently pay regularly to the city. He said this property would not generate extra pilot.

Roger Lumm, 53208 St. Matthews Court in Juday Creek Estates and Brad Varner 53296 Chelle Lane, expressed their concerns regarding the athletic facility, lighting, increased traffic, property values, and the impact the new wellfield may have on Juday Creek water. They asked for clarification on the plans for the proposed property, they said the South Bend Tribune paper was misleading.

Mr. Tanner said Water Utilities Manager Jim Schrader informed the council the wellfield would not impact Juday Creek. He explained there was a clay cap between the two aquifers which completely separated the resource for water. Mr. Tanner continued to say they have been assured the drilling and test boring done did not impact Juday Creek, they also tested to make sure the chloride from Juday Creek did not infiltrate into the second cap. He assured Mr. Lumm from what the council was told, there was no cause for concern regarding the water source. Mr. Tanner said the recreational facility would be offset 400 to 500 feet from the driving range between Lindy Drive and the proposed property, he did not believe there would be immediate impact from the lighting.

Mr. Compton said the sports complex was not a solid deal; they were looking for a partner. He continued to say they have a chance to grow Mishawaka, a chance to add to the city's tax base. Mr. Compton said this council was always respectful to the neighbors of businesses regarding lighting, noise, trash and traffic. He said they have seen residence move out of the city to Granger and the natural progression was Mishawaka would grow in that direction. Mr. Compton continued to say over time traffic, lighting and Cleveland Road would all be resolved one issue at a time. He said if the sport complex went in, the council would take into consideration all of the Juday Creek residence concerns. Mr. Compton went on to say the city would purchase enough property to expand the three holes. He said this gives the city the opportunity to grow and add water to the wellfields. Mr. Compton went on to say this may or may not improve their property values and the annexation could solve Juday Creeks water problems. He expressed he understood their concerns and the city would do their best to be respectful.

Public hear was closed at 8:12 P.M. for **PROPOSED ORDINANCE NO. 2018-05**

### **PROPOSED ORDINANCE NO. 2018-06**

**AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL  
CODE OF THE CITY OF MISHAWAKA, INDIANA, FROM TIME TO TIME  
AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF  
THE CITY OF MISHAWAKA, INDIANA  
(PUD Amd -Penn PUD- Lot 2- Juday Creek Business Park)  
(Assigned to Land Use Planning Committee)**

Mr. Banicki reported the Land Use Planning Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Compton motion carried.

Ken Prince, City Planner echoed his previous comments from Proposed Ordinance 2018-05. He added the recreational facility was a concept; the convention and Visitors Bureau were looking to do an indoor facility. Mr. Prince expressed they would always try to do the right thing. He said they would work on expanding Douglas Road into a 5-lane road with center turning lanes.

Mr. Compton questioned if the city supplied water to other area outside of the city. Mr. Prince replied yes, quite extensively. Mr. Compton asked could it be a possibility to supply water to the Juday Creek residence. Mr. Prince explained the issue was part of the area they served in the county was mandated by the federal government when they were having contamination issues. He continued to say there were funds brought to the table to extend it. Mr. Prince said because Juday Creek was located in the county there was not a financial incentive for the city to spend millions of dollars to extend to that subdivision.

Question was called for at 8:19 P.M. for **PROPOSED ORDINANCE 2018-06**  **Vote:**  
**Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Deal.**

### **PROPOSED ORDINANCE NO. 2018-07**

#### **AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA.**

(PUD Amd -Apartment Complex S. of Vistula Rd. E. of Bittersweet)  
(Assigned to Land Use Planning Committee)

Mr. Tanner reported the Land Use Planning Committee recommended this proposed ordinance should be presented to the Council as a whole and moved for acceptance of same upon a second by Mr. Banicki motion carried.

Chris Waidner, represented The Troyer Group, the engineers for the development. He described the development to be 27 building units, 2 stories high of 205 units in total. Mr. Waidner added there would also be 292 parking places with 205 garages on 20 acres of land. He mentioned he spoke with emergency departments regarding emergency access. Mr. Waidner said the development also planned a playground and dog park within the complex and improvements would be made on Vistula Road for access.

Mr. Deal questioned if Mr. Waidner reached out to the neighbors who had remonstranced. Mr. Waidner replied no. Mr. Waidner then requested to postpone until the May 7<sup>th</sup> meeting to take the time to meet with neighbors to discuss their concerns.

Mr. Deal made a motion to postpone **PROPOSED ORDINANCE 2018-07** to the May 07, 2018 meeting second by Mr. Canarecci motion carried.

## **PRIVILEGE OF THE FLOOR**

A group of individuals from the City of Mishawaka, Moms Demand Action, were requesting the council to consider a resolution for Common Sense Gun Laws specifically stronger background checks.

Members of the council thanked the individuals for coming.

## **UNFINISHED BUSINESS**

Clerk Block read the following Resolutions by title and were opened for public hearing.

### **RESOLUTION NO. 2018-03**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,  
INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING  
APPEALS FOR THE PROPERTY LOCATED AT:**

**1200 West Sixth Street, Mishawaka, Indiana**

Clerk Block read a letter from the petitioner requesting withdrawal.

Mr. Deal made a motion to withdraw **RESOLUTION NO. 2018-03** with a second by Mr. Canarecci motion carried.

### **RESOLUTION NO. 2018-04**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,  
INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING  
APPEALS FOR THE PROPERTY LOCATED AT:**

**1802 West Sixth Street, Mishawaka, Indiana**

Clerk Block read a letter from the petitioner requesting withdrawal.

Mr. Deal made a motion to withdraw **RESOLUTION NO. 2018-04** with a second by Mrs. Voelker motion carried.

## **NEW BUSINESS**

Mr. Deal announced the Twin Branch Neighborhood Meeting would be April 18<sup>th</sup>, at 7:00PM at Fire Station # 4 on Harrison Rd. The speaker would be Mayor Dave Wood, presenting his State of the City.

Mr. Tanner stated The Oaks Neighborhood Meeting would be April 10<sup>th</sup>, 6:00PM at the Albright United Methodist Church. The speaker would be Joe VanNevel, Code Enforcement Director.

Mr. Emmons's Neighborhood Meeting would be April 19<sup>th</sup>, at 7:00PM at St. Bavos School. The speaker to be announced at a later date.

**ADJOURNMENT 8:55 P.M.**

Deborah S. Block /s/  
Deborah S. Block, IAMC, MMC, City Clerk

Matt Mammolenti /s/  
Matt Mammolenti, President